

### **REMARKS**

Claims 1-29 were pending in this application. With entry of this Amendment, claims 3-6, 8, 9, 14, 28 and 29 have been cancelled and claims 1, 7, 10-13, 15, 17, and 20 have been amended. No new claims have been added. Thus, claims 1, 2, 7, 10-13, and 15-27 are now pending for examination. Support for the amended claims is found throughout the originally filed specification and claims. No new matter has been introduced.

#### **Rejections based on 35 U.S.C. §112**

The Examiner rejects claims 1-29 under 35 USC §112, first paragraph as allegedly not being enabled by the specification. Office Action, page 2. The Examiner acknowledges that the specification is enabling for a method of transforming sunflower cotyledons having the specific media components and culture conditions recited in the Examples in the specification. *Id.*, pages 2-3. The Examiner contends, however, that any other media components or culture conditions (*i.e.*, those not specifically set forth in the Examples) are not enabled. *Id.*, page 3.

Applicants respectfully disagree. For purposes of enablement, Applicants need only teach one of ordinary skill in the art how to make and use the claimed invention without undue experimentation. And a considerable amount of experimentation is permissible, so long as it is routine for those of skill in the art. *In re Wands*, 8 USPQ 2d 1400, 1404 (Fed. Cir. 1988).

Applicants contend that no undue experimentation is required to practice the claimed invention. The presently amended claims sufficiently define the media and culture conditions so that one of skill in the art, using routine tissue culture techniques, can select alternative components and use them in practicing the claimed invention. For example, claim 1 recites that one or more carbohydrates are present in the infiltration media. Carbohydrates suitable for tissue culture media are well-known to the skilled artisan. And it is a matter of routine experimentation to select one or more of these known carbohydrates and incorporate them into the claimed method. Other well-known media components and culture conditions, as defined in claim 1, can be similarly selected. No undue experimentation is required.

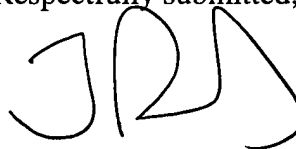
Moreover, the specification provides ample guidance for the skilled artisan beyond the specific Examples cited by the Examiner. Throughout the specification, lists of alternative media

components and culture conditions are provided. These alternative embodiments guide the skilled artisan in selecting suitable components and conditions for practicing the claimed method. Thus, the skilled artisan is not left to select from the universe of media components and guess what might work. To the contrary, the Applicants have taught those of skill in the art which particular components to use in practicing the claimed invention. And the skilled artisan can use their own knowledge to readily identify other equivalent structural or functional elements and conditions (or suitable minor modifications) based on the teachings in the specification.

By citing only the Examples, the Examiner is ignoring the broader teachings provided in the remainder of the specification. The Examples that use particular media components and culture conditions are embodiments of the claimed invention, but do not represent all enabled embodiments of the invention. When taken in the context of the entire specification (and the knowledge in the art), one of skill in the art is able to practice the full scope of the presently amended claims.

In view of the amendments and remarks presented herein, Applicants respectfully request reconsideration of this application. The Examiner is encouraged to call the undersigned should any further action be required for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JRD' or similar, written over the typed name.

M. Todd Rands  
Reg. No. 46,249  
ATTORNEY FOR ASSIGNEE,  
MONSANTO TECHNOLOGY LLC  
Monsanto Company  
800 N. Lindbergh Blvd.  
St. Louis, MO 63167 USA  
Tel: (314) 694-5802  
Fax: (314) 694-5311